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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,008	09/15/1999	LAWRENCE M. AUSUBEL	3788-7000US1	8229

30678 7590 10/20/2006

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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3692

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/397,008

Applicant(s)

AUSUBEL, LAWRENCE M.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-30, 43-55, 58-61, 113-115, 126-133, 139-141 and 152-173 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-30, 43-55, 58-61, 113-115, 126-133, 139-141 and 152-173 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44, 46, 59, 61, 160-173 remain rejected under 35 U.S.C. 103(a) as being unpatentable Anthes, Gary H. Computerworld, Framingham: April 3, 1995, Vol. 29, Issue 14, page 58 and Washington Telecom News, v2, n26, pN/A (Dialog File 16, Accession No. 03435210) as set forth in the prior Office action.

The instant claims recite features of allowing assignment of identical objects, similar object objects or close substitutes at different prices. In the FCC's narrow band auction, the reference by Washington Telecom News states that the FCC is auctioning multiple licenses or paired licenses for one or more round at different prices. See pages 1 and 2 of the reference. Applicant's representative argues that features of "generating current bidding information including at least a current price associated with at least one object" is not taught by the prior art. In response, in the Washington Telecom News reference, it is stated that "High bid amounts will be posted at the end of each bidding round". The reference also states providing a listing of minimum bid for a round and after the given round. See page 1 of the reference.

Applicant's representative then argues that the prior art fails to teach or suggest constraining bids so that the quantity of bids contained in a bid is no larger than a quantity.

In response, the Examiner asserts that constraining bids in the recited manner would have been obvious to one of ordinary skill in the art or business of auctions to introduce in the FCC system described by Anthes because such would have prevented the system in not having available objects to award a winning bidder.

Applicant's representative then argues that the prior art fails to teach or suggest the function of "determining using a comparison based on a sum of quantities contained in current bids" and determining whether the auction should continue based on a comparison of the sum of quantities contained in current bids".

As per these limitations, the Examiner asserts that in a given auction, certain conditions would result in the termination or continuation of the auction. Thus, providing the recited conditions is regarded of a one of plurality of conditions that may be desired the particular auctioneer as such does not result in patentable subject differences apart from the auction noted by the FCC as described by Anthes.

Applicant's representative then argues that the prior art fails to teach or suggest "indicating a quantity of items that a bidder wishes to transact at the current time".

In response, the Examiner disagrees and asserts that in most auctions, the number of desired objects or quantity of a given object is usually provided by a bidder. A bidder usually bids on one or more items or one or more of a number of items in a

given auction. Anthes also teaches a bidder may bid on one or more licenses. See pages 1 and 2 of the reference.

Claims 26, 28, 29, 30, 43, 45, 47-55, 58, 60, 113, 114, 115, 126-133, 139-141 and 152-159 are allowable over the art of record.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Frantzy Poinvil
Primary Examiner
Art Unit 3692

FP
October 13, 2006